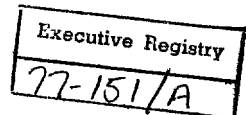


The Director
Central Intelligence Agency

Approved For Release 2004/03/16 : CIA-RDP80M00165A001800030016-6/b

Washington, D.C. 20505



18 JUL 1977

*Basic filed in
Congress
11/11/77*

Honorable Melvin Price, Chairman
Committee on Armed Services
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in reply to your request for our views and recommendations on H.R. 89, a bill to amend the National Security Act of 1947 to establish procedures and standards for classifying sensitive official information.

H.R. 89 would, in effect, codify existing Executive Order No. 11652, "Classification and Declassification of National Security Information and Material." The purpose of Executive Order No. 11652, issued on 8 March 1972, was to reduce the amount of classified information in the Government, to shorten the declassification schedules and improve protection for classified material and information.

The Ford Administration undertook a study of Executive Order No. 11652 to determine what improvements should be made, but the study had not been completed when President Ford left office. A study of Executive Order No. 11652 by the new Administration is underway. When this review is concluded, the Agency will be in a better position to address fully the issues raised in H.R. 89 and to decide whether changes to the classification scheme as embodied in Executive Order No. 11652 should be accomplished by legislation or by Executive order. I will welcome the opportunity to discuss these matters with you at the appropriate time. For the present, I urge that the timetable for the consideration of H.R. 89 be scheduled in consonance with the completion of the review by the Executive Branch of the management of classified national security information.

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Yours sincerely,

/s/ Stansfield Turner

STANSFIELD TURNER

(EXECUTIVE REGISTRY FILE)

Congress

Approved For Release 2004/03/16 : CIA-RDP80M00165A001800030016-6

SUBJECT: Views Letter to Chairman Price, House Armed
Services Committee, on H.R. 89

Distribution:

Orig - Addressee

1 - DCI

1 - DDCI

✓ - ER

1 - DDI

1 - DDS&T

1 - SA/DO/O

1 - AI/DDA

1 - IG

1 - SA/D/DCI/IC

1 - OGC

1 - OLC Subject

1 - OLC OMB Liaison

1 - OLC Chrono

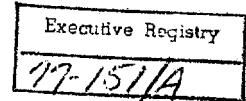
OLC:YTF:sm (retyped 7 Jul 77)

JUL 18 4 42 PM '77

ER



Washington, D.C. 20505



ER copy.

OMB Approval
file

Honorable Melvin Price, Chairman
Committee on Armed Services
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in reply to your request for our views and recommendations on H.R. 89, a bill to amend the National Security Act of 1947 to establish procedures and standards for classifying sensitive official information.

H.R. 89 would, in effect, codify Executive Order 11652, "Classification and Declassification of National Security Information and Material." The purpose of E.O. 11652, issued on 8 March 1972, was to reduce the amount of classified information in the Government, to shorten the declassification schedules and improve protection for classified material and information.

The Ford Administration undertook a study of Executive Order 11652 to determine what improvements should be made, but the study had not been completed when President Ford left office. We understand a study of Executive Order 11652 by the new Administration is contemplated. When this review is concluded, the Agency will be in a better position to address fully the issues raised in H.R. 89 and to decide whether changes to the classification scheme as embodied in E.O. 11652 should be accomplished by legislation or by Executive order. I will welcome the opportunity to discuss these matters with you at the appropriate time. For the present, I urge that the timetable for the consideration of H.R. 89 be scheduled in consonance with the completion of the review by the Executive branch of the management of classified national security information.

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Yours sincerely,

/s/ Stansfield Turner

STANSFIELD TURNER
Admiral, U.S. Navy

Approved For Release 2004/03/16 : CIA-RDP80M00165A001800030016-6

EXECUTIVE SECRETARIAT

Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	S/MC				
4	DDS&T				
5	DDI				
6	DDA				
7	DDO				
8	D/DCI/IC				
9	D/DCI/NIO				
10	GC				
11	LC	✓			
12	IG				
13	Compt				
14	D/Pers				
15	D/S				
16	DTR				
17	Asst/DCI				
18	AO/DCI				
19	C/IPS				
20					
21					
22					

SUSPENSE

Date

Remarks:

STAT

247 (1-73)

EXECUTIVE SECRETARY

Date

Congress

EX-100

F. EDWARD HEJERT, LA.
CHARLES E. BENNETT, FLA.
SAMUEL S. STRATTON, N.Y.
RICHARD H. ICHORD, MO.
LUCIEN N. NEDZI, MICH.
WILLIAM J. RANDALL, MO.
CHARLES H. WILSON, CALIF.
ROBERT L. LEGGETT, CALIF.
FLOYD V. HICKS, WASH.
RICHARD C. WHITE, TEX.
BILL NICHOLS, ALA.
JACK BRINKLEY, GA.
ROBERT H. (BOB) MOLLOHAN, W. VA.
DAN DANIEL, VA.
G. V. (SONNY) MONTGOMERY, MISS.
HAROLD RUNNELS, N. MEX.
LES ASPIN, WIS.
RONALD V. DELLUMS, CALIF.
MENDEL J. DAVIS, S.C.
PATRICIA SCHROEDER, COLO.
ABRAHAM KAZEN, JR., TEX.
ANTONIO B. WON FAT, GUAM
BOB CARR, MICH.
JIM LLOYD, CALIF.
LARRY MC DONALD, GA.
THOMAS J. DOWNEY, N.Y.

U.S. House of Representatives

COMMITTEE ON ARMED SERVICES

Washington, D.C. 20515

NINETY-FOURTH CONGRESS

MELVIN PRICE, CHAIRMAN

January 10, 1977

JOHN S. GARDNER, CALIF.
WILLIAM L. DICKINSON, ALA.
G. WILLIAM WHITEHURST, VA.
FLOYD D. SPENCE, S.C.
DAVID C. TREEN, LA.
GEORGE M. O'BRIEN, ILL.
ROBIN L. BEARD, TENN.
DONALD J. MITCHELL, N.Y.
MARJORIE S. HOLT, MD.
ROBERT W. DANIEL, JR., VA.
ELWOOD H. (BUD) HILLIS, IND.
ANDREW J. HINSHAW, CALIF.
RICHARD T. SCHULZE, PA.

FRANK M. SLATINSHEK, CHIEF COUNSEL

Executive Registry

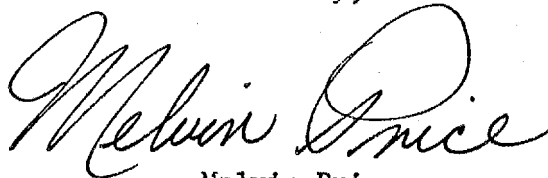
77-151

Honorable George H. Bush
Director, Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Bush:

The views and recommendations of the Central Intelligence
Agency are requested on H.R. 89, copies of which are enclosed.

Sincerely,



Melvin Price
Chairman

MP:ik
Enclosures

95TH CONGRESS
1ST SESSION

H. R. 89

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1977

Mr. BENNETT introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend the National Security Act of 1947 to establish procedures and standards for the classification and declassification of sensitive official information and material, to provide criminal penalties for unauthorized disclosure of such information or material, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That (a) the National Security Act of 1947 (61 Stat. 495)
- 4 is amended by adding at the end the following new title:

I

1 "TITLE V—CLASSIFICATION, DECLASSIFICA-
2 TION, AND SAFEGUARDING OF NATIONAL
3 SECURITY INFORMATION AND MATERIAL

4 "PURPOSE

5 "SEC. 501. The purpose of this title is to establish pro-
6 cedures for the protection against unauthorized disclosure of
7 official information and material which bears directly on the
8 national security, to prevent overclassification of such infor-
9 mation and material, to establish a general declassification
10 schedule, and to provide criminal penalties for violations of
11 this title.

12 "CLASSIFICATION STANDARDS AND PROCEDURES

13 "SEC. 502. (a) Official information and material which
14 requires protection against unauthorized disclosure in the
15 interest of the national defense or foreign relations of the
16 United States (hereinafter in this section referred to as 'na-
17 tional security information') may be designated and protected
18 as classified information or material in accordance with this
19 title.

20 "(b) There shall be three categories of classification
21 by which national security information may be designated,
22 and, except as otherwise expressly provided by law, no other
23 category or degree of classification shall be used to identify
24 or protect national security information. Nothing in the
25 preceding sentence shall prevent any official having authority

1 under subsection (c) (1) to originate the classification of
2 information and material from imposing requirements with
3 respect to access to, distribution of, and protection from
4 unauthorized disclosure of, national security information
5 originated by such official which are in addition to the require-
6 ments specified in this title. The three categories of classifica-
7 tion shall be known as 'Top Secret', 'Secret', and 'Confiden-
8 tial'. National security information shall be assigned to these
9 categories in accordance with the following standards:

10 “(1) The classification 'Top Secret', which shall be
11 used with the utmost restraint, shall be assigned to that
12 national security information requiring the highest de-
13 gree of protection and shall be used when the unauthor-
14 ized disclosure of the information or material involved
15 could reasonably be expected to cause exceptionally
16 grave damage to the national security.

17 “(2) The classification 'Secret', which shall be
18 sparingly used, shall be assigned to that national security
19 information requiring a substantial degree of protection
20 and shall be used when the unauthorized disclosure of
21 the information or material involved could reasonably
22 be expected to cause serious damage to the national
23 security.

24 “(3) The classification 'Confidential', which shall
25 be used with restraint, shall be assigned to that national

1 security information which is not classified as 'Top
2 Secret' or 'Secret' and shall be used when the un-
3 authorized disclosure of the information or material in-
4 volved could reasonably be expected to cause damage to
5 the national security.

6 “(c) (1) The authority to originate the classification of
7 information or material under this section shall be exercised
8 only by such officials as the President may designate in
9 writing and shall be restricted to those officials within the
10 executive branch who are directly concerned with matters
11 of national security.

12 “(2) The authority to downgrade the degree of classi-
13 fication of, and to declassify, classified information and
14 material shall be exercised only by—

15 “(A) the official authorizing the original classifi-
16 cation of such information or material;

17 “(B) the successor in capacity of such official;

18 “(C) a supervisory official of such official or suc-
19 cessor; or

20 “(D) any official designated by the President in
21 writing to have such authority.

22 “(d) In no case shall information or material be classi-
23 fied in order to conceal incompetence, inefficiency, wrong-
24 doing, or administrative error, to avoid embarrassment to
25 any person or agency, to restrain competition or independent

1 initiative, or to prevent for any other reason the release of
2 information or material which does not require protection in
3 the interest of national security. Any official who classifies
4 information or material in violation of this subsection shall
5 be subject to such administrative disciplinary action, includ-
6 ing suspension, as may be ordered by such official's superiors.

7 “(c) Each item of classified material shall show on its
8 face—

9 “(1) the category of classification of such material;

10 “(2) whether such material is subject to or ex-
11 empt from the General Declassification Schedule estab-
12 lished in section 503;

13 “(3) the office which originated the classification
14 of such material;

15 “(4) the dates of the preparation and the classifica-
16 tion of such material; and

17 “(5) to the extent practicable, which portions of
18 such material are classified and which portions are not
19 classified, together with the degree of classification of
20 those portions which are classified.

21 Material containing a reference to classified information or
22 material which reference does not reveal classified informa-
23 tion shall not be classified by reason of such reference.

24 “(f) Unless an agency provides some other method of
25 identifying the individual at the highest level of authority

1 who authorized classification of any item of classified material
2 originating within such agency, material classified under this
3 section shall indicate on its face the identity of the individual
4 at the highest level of authority who authorized classification
5 of such material. Where the individual who signs or otherwise
6 authenticates material also authorizes the classification of
7 such material, no further annotation as to the identity of such
8 individual is required.

9 “(g) Information or material which is furnished to the
10 United States by a foreign government or international
11 organization and which has been designated by such foreign
12 government or international organization as requiring pro-
13 tection against unauthorized disclosure shall either retain its
14 original designation or be assigned a classification under this
15 section, and in either case shall be assured a degree of pro-
16 tection equivalent to that required by the foreign govern-
17 ment or international organization furnishing such information
18 or material.

19 “(h) A holder of classified information or material shall
20 observe and respect the classification assigned to such infor-
21 mation or material by the originator of such classification.
22 If a holder of classified information or material believes that
23 such information or material should not be classified, that
24 the classification which has been assigned to such informa-
25 tion or material is improper, or that such information or

1 material is subject to declassification under this title, such
2 holder shall so inform the originator of the classification of
3 such information or material, who shall promptly reexamine
4 such classification.

5 “(i) Information and material which is lawfully classi-
6 fied (as such term is defined in section 507 (f) (4)) shall be
7 exempt from disclosure under section 552 of title 5, United
8 States Code.

9 “GENERAL DECLASSIFICATION SCHEDULE

10 “SEC. 503. (a) Classified information and material, un-
11 less declassified earlier by an official authorized under sec-
12 tion 502 (c) (2) to make such a declassification, shall be
13 downgraded in degree of classification and declassified in
14 accordance with this section.

15 “(b) Except as provided in subsection (c), downgrad-
16 ing and declassification of classified information and material
17 shall be carried out in accordance with the following sched-
18 ule, which may be referred to as the ‘General Declassifica-
19 tion Schedule’:

20 “(1) Information and material classified ‘Top Se-
21 cret’ shall become automatically downgraded to ‘Secret’
22 at the end of the second full calendar year following the
23 year in which it was classified ‘Top Secret’, automati-
24 cally downgraded to ‘Confidential’ at the end of the

1 fourth full calendar year following the year in which it
2 was classified 'Top Secret', and automatically declassified
3 at the end of the tenth full calendar year following the
4 year in which it was classified 'Top Secret'.

5 "(2) Information and material originally classified
6 'Secret' shall become automatically downgraded to 'Con-
7 fidential' at the end of the second full calendar year
8 following the year in which it was classified 'Secret' and
9 automatically declassified at the end of the eighth full
10 calendar year following the year in which it was classi-
11 fied 'Secret'.

12 "(3) Information and material originally classified
13 'Confidential' shall become automatically declassified at
14 the end of the sixth full calendar year following the year
15 in which it was so classified.

16 "(c) Any official authorized to originate the classifica-
17 tion of information or material as 'Top Secret' may exempt
18 from the General Declassification Schedule any level of clas-
19 sified information or material originated by him or under his
20 supervision if it falls within one of the categories described
21 below. In each case such official shall specify in writing on
22 the material involved the exemption category being claimed
23 and, unless impossible, a date or event for automatic de-
24 classification. The use of such exemption authority shall be
25 kept to the absolute minimum consistent with national secu-

1 rity requirements and shall be restricted to the following
2 categories:

3 “(1) Information or material furnished by a foreign
4 government or international organization and held by
5 the United States with the understanding that such in-
6 formation or material shall be kept in confidence.

7 “(2) Classified information or material specifically
8 covered by statute, or pertaining to cryptography,
9 or disclosing intelligence sources or methods.

10 “(3) Classified information or material disclosing a
11 system, plan, installation, project, or specific foreign re-
12 lations matter the continuing protection of which is
13 essential to the national security.

14 “(4) Classified information or material the disclo-
15 sure of which would place an individual in jeopardy.

16 “(d) All information or material classified after the
17 effective date of this title which is exempted under subsec-
18 tion (c) from the General Declassification Schedule shall
19 be subject to a classification review by the agency originat-
20 ing such classification at any time after the expiration of
21 10 years from the date of such origination whenever any
22 other agency or any member of the public requests such a
23 review, such a request is made with sufficient particularity
24 to enable the originating agency to identify the classified
25 information or material involved, and such information or

1 material can be obtained without unduly burdening such
2 agency. Classified information or material reviewed under
3 the preceding sentence which no longer qualifies for exemp-
4 tion under subsection (c) from the General Declassification
5 Schedule shall be declassified. Classified information or ma-
6 terial continuing to qualify for exemption from the General
7 Declassification Schedule shall be so marked and, unless
8 impossible, a date shall be set for automatic declassification
9 of such information or material.

10 “(c) Information or material classified before the effec-
11 tive date of this title under Executive Order Numbered
12 11652 or any subsequent Executive order or which was
13 assigned to group 4 under Executive Order Numbered
14 10501 shall be subject to the General Declassification
15 Schedule. All other information or material classified before
16 the effective date of this title shall be excluded from the
17 General Declassification Schedule, but at any time after the
18 end of the 10-year period beginning with the date of the
19 origination of the classification of such information or mate-
20 rial, such information or material shall be subject to a classi-
21 fication review under the same conditions and criteria that
22 apply to information or material classified after the effective
23 date of this title.

24 “(f) Classified information or material which is 25
25 years old or more, whether originating before or after the

1 effective date of this title, shall be declassified under the
2 following conditions:

3 “(1) Information and material classified after the
4 effective date of this title shall, whether or not declassi-
5 fication has been requested, become automatically de-
6 classified at the end of 25 full calendar years after the
7 date of the original classification of such information
8 or material, except for such specifically identified infor-
9 mation or material which the head of the agency origi-
10 nating the classification of such information or material
11 personally determines in writing at that time to require
12 continued protection because such continued protection
13 is essential to the national security or because disclosure
14 would place an individual in jeopardy. In such case, the
15 head of such agency shall also specify the period of con-
16 tinued classification of such information or material.

17 “(2) Information and material classified before
18 the effective date of this title shall be systematically
19 reviewed for declassification by the Archivist of the
20 United States by the end of the 25th full calendar year
21 following the year in which the classification of such
22 information or material was originated. At the end of
23 such 25th year, the Archivist shall continue to protect
24 from unauthorized disclosure only such portions of such
25 information or material as are specifically identified by

1 the head of the agency originating the classification of
2 such information or material, in accordance with the
3 standards prescribed in paragraph (1), as requiring
4 continued protection. In such case, the head of such
5 agency shall also specify the period of continued classi-
6 fication of such information or material.

7 “(g) The provisions of this section relating to the de-
8 classification of national security information shall apply to
9 agencies which do not have authority to classify information
10 or material but which formerly had such authority.

11 “IMPLEMENTING REGULATIONS; STANDARDS

12 “SEC. 504. The President, acting through the Inter-
13 agency Classification Review Committee established by sec-
14 tion 506, shall issue regulations to carry out sections 502 and
15 503. Such regulations shall include provisions to insure
16 that—

17 “(1) any person given access to classified informa-
18 tion or material (A) has been determined to be trust-
19 worthy, and (B) requires access to such information or
20 material in the performance of official duties;

21 “(2) all classified material is appropriately and con-
22 spicuously marked so as to put any person coming in
23 contact with such material on clear notice that the con-
24 tents of such material are classified;

1 “(3) classified information and material is used,
2 possessed, and stored only under conditions which will
3 prevent access to such information and material by
4 persons not specifically authorized to have such access
5 and will prevent dissemination of such information and
6 material to persons not specifically authorized to receive
7 it;

8 “(4) classified information and material dissemi-
9 nated outside the executive branch is protected against
10 unauthorized disclosure;

11 “(5) appropriate records to assure accountability
12 for all classified information and material are established
13 and maintained and that classified material is adequately
14 protected during all transmissions of such material;

15 “(6) classified information and material no longer
16 needed in current working files or for reference or record
17 purposes is destroyed or otherwise disposed of in accord-
18 ance with chapter 33 of title 44, United States Code
19 (relating to disposal of records) ; and

20 “(7) all classified information and material is re-
21 viewed on a systematic basis for the purpose of down-
22 grading, declassifying, transferring, retiring, or destroy-
23 ing such information or material, as may be appropriate
24 in each case, at the earliest practicable date.

1 "MATERIAL COVERED BY THE ATOMIC ENERGY ACT OF

2 1954

3 "SEC. 505. Nothing in this title shall supersede any
4 requirements made by or under the Atomic Energy Act of
5 1954. Material designated as 'Restricted Data' and material
6 designated as 'Formerly Restricted Data' shall be handled,
7 protected, classified, downgraded, and declassified in con-
8 formity with the provisions of the Atomic Energy Act of
9 1954.

10 "INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

11 "SEC. 506. (a) (1) There is established in the Executive
12 Office of the President a committee to be known as the Inter-
13 agency Classification Review Committee (hereinafter in this
14 section referred to as the 'Review Committee').

15 "(2) The Review Committee shall be headed by a
16 Chairman, who shall be appointed by the President, by
17 and with the advice and consent of the Senate, and who shall
18 be paid at the rate in effect for level IV of the Executive
19 Schedule.

20 "(3) The Review Committee shall be comprised of—

21 "(A) the Chairman;

22 "(B) the Archivist of the United States; and

23 "(C) a senior representative from—

24 "(i) the Department of State;

25 "(ii) the Department of Defense;

1 “(iii) the Justice Department;

2 “(iv) the Energy Research and Development
3 Administration;

4 “(v) the Central Intelligence Agency; and

5 “(vi) the National Security Council staff.

6 “(b) (1) The Review Committee shall monitor actions
7 taken by agencies handling classified information and material
8 to ensure compliance with this title.

9 “(2) The Review Committee shall place particular
10 emphasis on—

11 “(A) preventing overclassification;

12 “(B) ensuring declassification in accordance with
13 section 503;

14 “(C) facilitating access to declassified material; and

15 “(D) eliminating unauthorized disclosure of classi-
16 fied information.

17 “(3) Under such procedures as the Review Committee
18 may prescribe, it shall consider and take action on com-
19 plaints from persons within or without the Government with
20 respect to the administration of sections 502 and 503, in-
21 cluding appeals from denials of declassification requests by
22 agencies having custody of classified information or material.

23 “(4) Not later than March 31 of each year, the Review
24 Committee shall report to the President and to the Con-

1 gress on the administration of this title in the preceding
2 calendar year. Such report shall include—

3 “(A) the number and titles of officials within
4 each agency who are authorized to classify and de-
5 classify information or material;

6 “(B) the number of documents and other types of
7 material classified and the number declassified during
8 the preceding calendar year in each agency;

9 “(C) the number of such documents and other
10 types of material designated in each agency during such
11 calendar year to be exempted from the General Declassi-
12 fication Schedule established in section 503 (b) ; and

13 “(D) the number and result of investigations in
14 such calendar year in each agency into suspected viola-
15 tions of this title or such regulations and orders as may
16 be issued by the President to implement sections 502
17 and 503.

18 “(e) The Review Committee shall, upon receiving in-
19 formation concerning any action of any official which ap-
20 pears to have been conducted in violation of this title,
21 transmit such information to the Attorney General of the
22 United States.

23 “(d) (1) The Chairman of the Review Committee may
24 employ and prescribe the functions of such officers and
25 employees, including attorneys, as are necessary to perform

1 the functions of the Review Committee. At the discretion of
2 the Chairman, any officer or employee of the Review Com-
3 mittee may be allowed and paid travel expenses, including
4 per diem in lieu of subsistence, in the same manner as is
5 authorized by section 5703 of title 5, United States Code, for
6 individuals employed intermittently.

7 “(2) The Chairman may procure services as authorized
8 by section 3109 of title 5, United States Code, and may pay
9 a rate for such services not in excess of the rate in effect for
10 grade GS-18 of the General Schedule.

11 “(3) The Chairman may accept in furtherance of this
12 title voluntary and uncompensated services, notwithstanding
13 section 3679 (b) of the Revised Statutes (31 U.S.C. 655
14 (b)).

15 “UNAUTHORIZED DISCLOSURE OF CLASSIFIED
16 INFORMATION

17 “SEC. 507. (a) Whoever knowingly communicates clas-
18 sified information or material which he knows or has reason
19 to know is classified information or material to a foreign gov-
20 ernment or foreign organization or to any officer or agent
21 thereof not authorized to receive such information or mate-
22 rial shall be punished by imprisonment for any term of years
23 or for life.

24 “(b) Whoever, being or having been in authorized pos-
25 session or control of classified information or material or

1 being or having been an officer or employee of the United
2 States, a member of the Armed Forces of the United States,
3 a contractor of the United States Government, or an em-
4 ployee of a contractor of the United States Government and
5 being or having been in possession or control of classified
6 information or material in the course of that relationship,
7 knowingly communicates such information or material to a
8 person not authorized to receive it shall be fined not more
9 than \$10,000 or sentenced to a term of imprisonment of
10 not more than 10 years, or both.

11 “(c) Whoever knowingly communicates classified in-
12 formation or material which he knows or has reason to know
13 is classified information or material to a person not author-
14 ized to receive it shall be fined not more than \$5,000 or
15 sentenced to a term of imprisonment of not more than 1
16 year, or both. Nothing in this subsection shall be construed to
17 infringe rights or liberties guaranteed under the Constitution
18 or laws of the United States.

19 “(d) It is a defense to a prosecution under subsection
20 (b) or (c) that—

21 “(1) before the commission of the offense with
22 which the defendant is charged, the information or
23 material communicated had been publicly disclosed; or

24 “(2) the information or material communicated

1 was not lawfully classified at the time of the offense with
2 which the defendant is charged; or

3 “(3) the information or material communicated
4 was communicated only to a regularly constituted sub-
5 committee, committee, or joint committee of Congress,
6 pursuant to lawful demand.

7 “(e) In making a determination as to whether the
8 information or material communicated was lawfully classified
9 at the time of the offense with which the defendant is
10 charged, the court shall determine the matter de novo and
11 may examine the contents of such information or material
12 in camera, and the burden is on the United States to sustain
13 the classification of such information or material. At the close
14 of any in camera review under this subsection, the court
15 shall enter into the record its findings and determinations
16 with respect to such review. Any determination by the court
17 under this subsection shall be a question of law.

18 “(f) For the purposes of this section:

19 “(1) The term ‘classified information or material’
20 means information or material which is designated as
21 information or material which—

22 “(A) has been classified under this title;

23 “(B) was classified before the effective date
24 of this title under an Executive order; or

1 “(C) was furnished to the United States by a
2 foreign government or international organization and
3 was designated by such foreign government or inter-
4 national organization as requiring protection against
5 unauthorized disclosure.

6 “(2) The term ‘communicates’ means to impart,
7 transfer, publish, or otherwise make available.

8 “(3) The term ‘authorized’, when used in relation
9 to the possession, receipt, or control of classified informa-
10 tion or material, means with legal authority to have
11 access to, to possess, to receive, or to control such in-
12 formation or material.

13 “(4) The term ‘lawfully classified’, when used in
14 relation to classified information or material, means—

15 “(A) in the case of information or material
16 classified on or after the effective date of this title,
17 that such information or material—

18 “(i) is specifically authorized under the
19 criteria established by section 502 to be pro-
20 tected from unauthorized disclosure in the in-
21 terest of the national defense or foreign rela-
22 tions of the United States;

23 “(ii) is in fact properly classified under
24 the criteria and procedures established by sec-
25 tion 502; and

1 “(iii) was classified by a person author-
2 ized under section 502 (c) to make such a clas-
3 sification;

4 “(B) in the case of information or material
5 classified before the effective date of this title, that
6 such information or material—

7 “(i) is specifically authorized under cri-
8 teria established by an Executive order to be
9 protected from unauthorized disclosure in the
10 interest of the national defense or foreign rela-
11 tions of the United States;

12 “(ii) is in fact properly classified under
13 the criteria and procedures established by such
14 Executive order; and

15 “(iii) was classified by a person author-
16 ized by statute, Executive order, or regulation
17 to make such a classification; and

18 “(C) in the case of information or material
19 designated as information or material which (i) was
20 furnished to the United States by a foreign gov-
21 ernment or international organization and (ii) was
22 designated by such foreign government or inter-
23 national organization as requiring protection against
24 unauthorized disclosure, that such information or
25 material was in fact furnished to the United States

1 by a foreign government or international organiza-
2 tion and was in fact designated by such foreign
3 government or international organization as requir-
4 ing protection from unauthorized disclosure.

5 "PENALTY FOR IMPROPER CLASSIFICATION

6 "SEC. 508. Whoever classifies information or material
7 in order to conceal incompetence, inefficiency, wrongdoing,
8 or administrative error, to avoid embarrassment to any indi-
9 vidual or agency, to restrain competition or independent
10 initiative, or to prevent or delay for any reason the release
11 of information which does not bear directly on the effective-
12 ness of the national defense or the conduct of foreign rela-
13 tions shall be fined not more than \$1,000 or sentenced to a
14 term of imprisonment of not more than 1 year, or both.

15 "DEFINITION

16 "SEC. 509. For purposes of this title, the term 'agency'
17 means any executive department, military department, Gov-
18 ernment corporation, Government-controlled corporation, or
19 other establishment in the executive branch of the Govern-
20 ment (including the Executive Office of the President), or
21 any independent regulatory agency."

22 (b) The table of contents at the beginning of the Na-
23 tional Security Act of 1947 is amended by adding at the
24 end the following:

"TITLE V—CLASSIFICATION, DECLASSIFICATION, AND
SAFEGUARDING OF NATIONAL SECURITY INFORMA-
TION AND MATERIAL

"Sec. 501. Purpose.

"Sec. 502. Classification standards and procedures.

"Sec. 503. General Declassification Schedule.

"Sec. 504. Implementing regulations; standards.

"Sec. 505. Material covered by the Atomic Energy Act of 1954.

"Sec. 506. Interagency Classification Review Committee.

"Sec. 507. Unauthorized disclosure of classified information.

"Sec. 508. Penalty for improper classification.

"Sec. 509. Definition."

- 1 SEC. 2. The amendments made by the first section of this
- 2 Act shall take effect at the end of the 90-day period begin-
- 3 ning with the date of enactment of this Act.

95TH CONGRESS
1ST Session

H. R. 89

A BILL

To amend the National Security Act of 1947 to establish procedures and standards for the classification and declassification of sensitive official information and material, to provide criminal penalties for unauthorized disclosure of such information or material, and for other purposes.

By Mr. BENNETT

JANUARY 4, 1977

Referred to the Committee on Armed Services